

November 11, 2021

Via Electronic Mail/Filing

Ms. Jocelyn Boyd
Chief Clerk and Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia SC 29210

Re: Joint Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to
Request the Commission to Hold a Joint Hearing with the North Carolina Utilities
Commission to Develop Carbon Plan, **Docket No. 2021-349-E**

Dear Ms. Boyd:

We are writing on behalf of our client Google, LLC ("Google") in support of the comments submitted by the South Carolina Office of Regulatory Staff ("ORS") in ORS's November 10, 2021 letter regarding Docket 2021-349-E. ORS's November 10, 2021 letter is enclosed here for reference as **Exhibit 1** to our letter.

Further, we are also writing on behalf of Google to hereby respectfully request that the Commission deny Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") *ex parte* briefing request which DEC and DEP filed on November 10, 2021 in Docket 2021-349-E. Google requests that the Commission deny the request for *ex parte* briefing in light of: (1) the magnitude of legal, procedural, and factual issues presented before this Commission, (2) the unusually rapid procedural pace that DEC and DEP have requested for Docket 2021-349-E, and (3) the fact the work in 2021-349-E will be ongoing at the very same time as the *ex parte* proceeding.

On November 10, 2021, DEC and DEP proposed a November 17, 2021 *ex parte* briefing¹, which, if allowed, would be held while all interested parties are also concurrently drafting

¹ The Request should also be denied as improper as S.C. Code Ann. § 58-3-260 requires five business days between the request and the hearing which is not the case here as November 11, 2021 is a State holiday. For purposes of this letter, Google expects DEC/DEP will remedy that by requesting a later date. Google asks that the presumed supplemental request from DEC/DEP be denied for the reasons listed in this filing.

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comments to meet a December 3, 2021 DEC/DEP imposed comment deadline in Docket 2021-349-E, assuming the DEC/DEP schedule is granted. Google questions the wisdom of holding an *ex parte* briefing in the midst of such a significant and rapidly litigated proceeding on the very same subject, assuming the Commission agrees to commence with the proposed joint proceeding in the first place. DEC/DEP's opportunity to make their case should be in Docket 2021-349-E itself, and there should be no need for an *ex parte* briefing on top of the DEC/DEP requested rapid docket. The ideal use of the *ex parte* proceeding is as a free-standing educational briefing, not as a second and concurrent litigation forum of the sort proposed by DEC and DEP.

Additionally, note that the Commission has full discretion as to whether to decide to hold an *ex parte* briefing. Per S.C. Code Ann. § 58-3-260(C)(6)(d), **“(d) nothing in subsection (C)(6) of this section requires any commissioner or commission employee to grant a request for an allowable ex parte communication briefing** except as provided in subsection (C)(6)(a)(iv) of this section[.]” (Note that the reference to (C)(6)(a)(iv) is not relevant for this Docket's purposes because that provision applies only where an entity demands an *ex parte* briefing in reply to a prior *ex parte* briefing.) Therefore, S.C. Code Ann. § 58-3-260(C)(6)(d) provides that the Commission's decision as to whether to grant an *ex parte* briefing is entirely discretionary, and the Commission can deny any *ex parte* request if it so chooses. As such, no party has a right to an *ex parte* proceeding, and *ex parte* proceedings are entirely permissive and discretionary. See *Id.* Without Google yet commenting on the ultimate merits of the DEC/DEP request for the joint two state proceeding, Google respectfully requests that the Commission deny the DEC/DEP request for an *ex parte* briefing and requests that it set a hearing or other forum where all interested persons may participate and be heard in lieu of an allowable, one-sided briefing by DEC/DEP

Very Truly Yours,



Weston Adams, III

WA, III:cew
Counsel of record (via e-mail/e-filing)
Enclosure